



295 Centerpoint Blvd  
Pittston, PA 18640  
http://www.benco.com

# Equipment Sales Agreement

Ref No:	359
Purchase Order:	00000359
Printed On:	1/17/2012
Prices Firm Until:	6/29/2012

### Customer Information

3045583530 - Health & Human Resources -BPH  
167 Eleventh Ave.  
South Charleston, WV 25303  
304-558-3530

### Installation Address

1 - Health & Human Resources -BPH  
167 Eleventh Ave.  
South Charleston, WV 25303  
304-558-3530

### Benco Information

**Equipment Specialist:** Michael Boychuk  
412-841-4333  
**Sales Representative:** Larry Williams  
304-545-4944

### Requested Installation Date

None Specified  
You may move forward your Requested Installation Date up to 45 days prior to the initial Requested Date. Changes or cancellations to this Equipment Order may result in additional charges or fees. See terms and conditions on reverse.

Qty	Item #	Mfg	Item Description	Retail	Net Price	Ext Price
1	4000-055	ARIBEX FP-0005	NOMAD PRO X-RAY HAND HELD	\$7,495.00	\$5,353.57	\$5,353.57

**Subtotal :** \$5,353.57

**Freight :** \$107.07

**Approximate Tax\* :** \$0.00

**Total Invested :** \$5,460.64

Installation labor will be billed at a discounted rate.

\* Please note tax is estimated based on installation address, and subject to change without notice. Exact taxes will be reflected on your final invoice.

I have carefully reviewed the terms described above and stipulate that both the model numbers and pricing are correct and as agreed upon. I accept this agreement as presented or with the changes indicated above.

Purchaser

Benco Representative

Date

*Michael Boychuk* 1/17/12

RFQ #

CME 12098

2012 JAN 13 10:51  
D.



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# Request for Quotation

RFQ NUMBER
CME12098

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
ROBERTA WAGNER 304-558-0067

\*709010132 724-776-5660

VENDOR

BENCO DENTAL SUPPLY CO  
 290 EXECUTIVE DR STE 4

CRANBERRY TWP PA 16066

SHIP TO

HEALTH AND HUMAN RESOURCES  
 BPH - LABORATORY SERVICES

167-ELEVENTH AVENUE  
 SOUTH CHARLESTON, WV  
 25303 304-558-3530

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
01/11/2012				

BID OPENING DATE: 01/26/2012 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
ADDENDUM NO. 1						
1. QUESTIONS AND ANSWERS ARE ATTACHED.						
2. ADDENDUM ACKNOWLEDGEMENT IS ATTACHED. THIS DOCUMENT SHOULD BE SIGNED AND RETURNED WITH YOUR BID. FAILURE TO SIGN AND RETURN MAY RESULT IN DISQUALIFICATION OF YOUR BID.						
EXHIBIT 10						
REQUISITION NO.: CME12098						
ADDENDUM ACKNOWLEDGEMENT						
I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.						
ADDENDUM NO.'S:						
NO. 1 .....						
NO. 2 .....						
NO. 3 .....						
NO. 4 .....						
NO. 5 .....						
I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS			
SIGNATURE	TELEPHONE	DATE	
<i>Michael S. Boyer</i>	412-841-4335	1/17/12	
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE	
ES	23-2718942		

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

## GENERAL TERMS & CONDITIONS REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at [www.state.wv.us/admin/purchase/vrc/hipaa.html](http://www.state.wv.us/admin/purchase/vrc/hipaa.html) and is hereby made part of the agreement provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **LICENSING:** Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, and the West Virginia Insurance Commission. The vendor must provide all necessary releases to obtain information to enable the director or spending unit to verify that the vendor is licensed and in good standing with the above entities.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the State of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

### INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
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ADDRESS CORRESPONDENCE TO ATTENTION OF:
ROBERTA WAGNER
304-558-0067

\*709010132                      724-776-5660

VENDOR

BENCO DENTAL SUPPLY CO  
 290 EXECUTIVE DR STE 4

CRANBERRY TWP PA 16066

SHIP TO

HEALTH AND HUMAN RESOURCES  
 BPH - LABORATORY SERVICES

167-ELEVENTH AVENUE  
 SOUTH CHARLESTON, WV  
 25303                              304-558-3530

DATE PRINTED 01/11/2012	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: 01/26/2012                              BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.</p> <p>..... SIGNATURE</p> <p>..... COMPANY</p> <p>..... DATE</p> <p>NOTE: THIS ADDENDUM ACKNOWLEDGEMENT SHOULD BE SUBMITTED WITH THE BID.</p> <p>REV. 09/21/2009</p> <p>END OF ADDENDUM NO. 1</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Michael Stoye</i>	TELEPHONE 412-841-4333	DATE 1/17/12
TITLE ES	FEIN 23-2718942	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

STATE OF WEST VIRGINIA  
**PURCHASE CONTINUATION SHEET**

Page ____ of ____ Pages		Requisition / P.O. No.: CME12098
File: RW22	Acct. No.: 0407-2012-2937-045-251	
Spending Unit: DHR/OCME		

Vendor: \_\_\_\_\_ P.O. Date: \_\_\_\_\_

Item No.	Quantity	Description	Unit Price	Amount
		<p>VENDOR QUESTION #1:</p> <p>Benco is not a dealer of Dex that is an exclusive to Henry Schein. Am I still able to bid on the Nomad Pro?</p> <p>RESPONSE:</p> <p>Yes</p> <p><i>Please see attached bid for Nomad PRO.</i></p>		

**Mike Boychuk**  
Regional Equipment  
Manager



We deliver success smile after smile.  
290 Executive Drive, Suite 4  
Cranberry Township, PA 16066  
1.800.GO.BENCO  
benco.com

800.668.8014 Office  
412.841.4333 Cell  
724.776.4282 Fax  
mboychuk@benco.com



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\*709010132 724-776-5660

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 290 EXECUTIVE DR STE 4  
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SHIP TO

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 167-ELEVENTH AVENUE  
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 25303 304-558-3530

DATE PRINTED 12/27/2011	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: 01/26/2012 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		260-96		
DEXIS PLATINUM DIGITAL X-RAY SYSTEM (INCLUDING ONE DEXIS INTRA-ORAL SENSOR, ONE DEXRAY SOFTWARE LICENSE, ON-SITE TRAINING, ONE POSITION-IT KIT, AND ONE YEAR DEXCARE WARRANTY). ITEM #114-2513 OR EQUAL.						
0002	2	YR		260-96		
EXTENDED WARRANTY FOR YEARS 2 AND 3 - PER DEXIS OR EQUAL.						
0003	1	EA		260-96		
DEXNET-MULTI USER LICENSES FOR UNLIMITED NUMBER OF COMPUTERS IN A SINGLE LOCATION. ITEM #104-7438 OR EQUAL						
0004	1	EA		260-96		
DEXIS DELUXE LAPTOP, ITEM #104-6463 OR EQUAL						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Michael Stoy</i>	TELEPHONE 412-841-4333	DATE 1/17/12
TITLE ES	FEIN 23-2718942	ADDRESS CHANGES TO BE NOTED ABOVE

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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0005	1	EA		260-96	\$ 5353. <sup>57</sup>	
NOMAD PRO HANDHELD X-RAY SYSTEM, ITEM #ARIBEX						
OR EQUAL.						
0006	1	JB		962-24-00-000	\$ 107.07	
FREIGHT/SHIPPING CHARGES						
TO PROVIDE A DEXIS PLATINUM DIGITAL X-RAY SYSTEM OR EQUAL, INCLUDING INTRA-ORAL SENSOR OR EQUAL, ONE DEXRAY SOFTWARE LICENSE OR EQUAL, ON-SITE TRAINING, ONE POSITION-IT KIT OR EQUAL AND ONE YEAR WARRANTY, PER PER THE ATTACHED SPECIFICATIONS.						
CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.						
BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Michael S. Ben</i>	TELEPHONE 412-841-4333	DATE 1/17/12
TITLE ES	FEIN 23-2718942	ADDRESS CHANGES TO BE NOTED ABOVE

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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>INQUIRIES:            WRITTEN QUESTIONS SHALL BE ACCEPTED THROUGH CLOSE OF BUSINESS ON 1/10/2012. QUESTIONS MAY BE SENT VIA USPS, FAX, COURIER OR E-MAIL. IN ORDER TO ASSURE NO VENDOR RECEIVES AN UNFAIR ADVANTAGE, NO SUBSTANTIVE QUESTIONS WILL BE ANSWERED ORALLY. IF POSSIBLE, E-MAIL QUESTIONS ARE PREFERRED. ADDRESS INQUIRIES TO:</p> <p>ROBERTA WAGNER            DEPARTMENT OF ADMINISTRATION            PURCHASING DIVISION            2019 WASHINGTON STREET, EAST            CHARLESTON, WV 25311</p> <p>FAX: 304-558-4115            E-MAIL: ROBERTA.A.WAGNER@WV.GOV</p> <p>THE MODEL/BRAND/SPECIFICATIONS NAMED HEREIN ESTABLISH THE ACCEPTABLE LEVEL OF QUALITY ONLY AND ARE NOT INTENDED TO REFLECT A PREFERENCE OR FAVOR ANY PARTICULAR BRAND OR VENDOR. VENDORS WHO ARE BIDDING ALTERNATES SHOULD SO STATE AND INCLUDE PERTINENT LITERATURE AND SPECIFICATIONS. FAILURE TO PROVIDE INFORMATION FOR ANY ALTERNATES MAY BE GROUNDS FOR REJECTION OF THE BID. THE STATE RESERVES THE RIGHT TO WAIVE MINOR IRREGULARITIES IN BIDS OR SPECIFICATIONS IN ACCORDANCE WITH SECTION 148-1-4 (F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS.</p> <p>VENDOR PREFERENCE CERTIFICATE</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Michael S. Boye</i>	TELEPHONE 412.841-4333	DATE 1/17/12
TITLE ES	FEIN 23-2718942	ADDRESS CHANGES TO BE NOTED ABOVE

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DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
12/27/2011				

BID OPENING DATE: 01/26/2012      BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>THIS TEAM EXHIBIT HAS BEEN REPLACED BY THE ONLINE VERSION WHICH IS AVAILABLE HERE:  <a href="http://www.state.wv.us/admin/purchase/vrc/venpref.pdf">HTTP://WWW.STATE.WV.US/ADMIN/PURCHASE/VRC/VENPREF.PDF</a></p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;">DEPARTMENT OF ADMINISTRATION          PURCHASING DIVISION          BUILDING 15          2019 WASHINGTON STREET, EAST          CHARLESTON, WV 25305-0130</p> <p>PLEASE NOTE: A CONVENIENCE COPY WOULD BE APPRECIATED.</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER:-----RW/FILE 22-----</p> <p>RFQ. NO.:-----CME12098-----</p> <p>BID OPENING DATE:-----1/26/2012-----</p> <p>BID OPENING TIME:-----1:30 PM-----</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	<i>Michael S. Boyz</i>	TELEPHONE	112-841-4333	DATE	1/17/12
TITLE	ES	FEIN	23-2718942	ADDRESS CHANGES TO BE NOTED ABOVE	

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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
CONTACT PERSON (PLEASE PRINT CLEARLY): <i>Michael S. Boychuk</i> <i>412-841-4333</i>						
ANY INDIVIDUAL SIGNING THIS BID IS CERTIFYING THAT: (1) HE OR SHE IS AUTHORIZED BY THE BIDDER TO EXECUTE THE BID OR ANY DOCUMENTS RELATED THERETO ON BEHALF OF THE BIDDER, (2) THAT HE OR SHE IS AUTHORIZED TO BIND THE BIDDER IN A CONTRACTUAL RELATIONSHIP, AND (3) THAT THE BIDDER HAS PROPERLY REGISTERED WITH ANY STATE AGENCIES THAT MAY REQUIRE REGISTRATION.						
***** THIS IS THE END OF RFQ CME12098 ***** TOTAL:						<u>\$5460.64</u>

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Michael S. Boychuk</i>	TELEPHONE <i>412-841-4333</i>	DATE <i>1/17/12</i>
TITLE <i>ED</i>	FEIN <i>23-2718942</i>	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**RFQ COST SHEET**

Bidders must provide a cost for the following:

DEXIS Platinum Digital X-ray System, or equal (including one DEXIS Intra-oral sensor, one DEXray software license, on-site training, One Position-it-kit, one year DEXcare warranty, or equal) \$ \_\_\_\_\_

DEXIS Deluxe Laptop, or equal \$ \_\_\_\_\_

Nomad Pro Handheld X-Ray System, or equal \$ 5353.57

DEXnet-Multi User License for unlimited number Of computers in a single location, or equal \$ \_\_\_\_\_

Extended Warranty for year 2 \$ \_\_\_\_\_

Extended Warranty for year 3 \$ \_\_\_\_\_

**Total Cost** \$ 5353.57  
+ freight

The award will be made to the vendor with the lowest overall total cost of the equipment and extended warranties which meets all the requested specifications and requirements. Payment will be made in arrears.

Michael S. Bay  
Vendor Signature

1/17/12  
Date

AGREEMENT ADDENDUM FOR SOFTWARE

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any provision requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. *Fees for software licenses, subscriptions, or maintenance are payable annually in advance.* Payment for services will be in arrears.
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **FEES OR COSTS** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination. *In such event, Agency will not be entitled to a refund of any software license, subscription of maintenance fees paid.*
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

## ACCEPTED BY:

STATE OF WEST VIRGINIA

Spending Unit: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

VENDORCompany Name: Banco DentalSigned: Michael S. BoyerTitle: ESDate: 1/17/12

State of West Virginia

VENDOR PREFERENCE CERTIFICATE

Certification and application\* is hereby made for Preference in accordance with West Virginia Code, §5A-3-37. (Does not apply to construction contracts). West Virginia Code, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the West Virginia Code. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

1. Application is made for 2.5% resident vendor preference for the reason checked:
Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,

2. Application is made for 2.5% resident vendor preference for the reason checked:
Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

3. Application is made for 2.5% resident vendor preference for the reason checked:
Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

4. Application is made for 5% resident vendor preference for the reason checked:
Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,

5. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:
Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,

6. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:
Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Benco Dunkel Signed: Michael SR

Date: 1/17/12 Title: ES

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

West Virginia Code §5A-3-10a states: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

**EXCEPTION:** The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (*West Virginia Code* §61-5-3), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

**WITNESS THE FOLLOWING SIGNATURE**

Vendor's Name: Benco Dental

Authorized Signature: Michael S. Boyer Date: 1/17/12

State of Pennsylvania

County of Butler, to-wit:

Taken, subscribed, and sworn to before me this 17 day of January, 2012

My Commission expires 10 29 2013, 20  .

**AFFIX SEAL HERE**

**NOTARY PUBLIC** Eileen M. Horne

